



## Important Message to our fellow Business Owners, Clients and Communities

We are closely following the latest guidance from the Centers for Disease Control (CDC), the World Health Organization (WHO), local governments, and public health agencies and are prepared to navigate these challenging circumstances with everyone's safety in mind.

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Our physical office remains open to continue to serve our clients during this evolving situation. Social distancing protocols, class size limitations, and pre-entry screening have become a part of our daily lives.

Due to heightened health and safety measures recommended by the CDC and implemented by state and local health departments, we have enacted the following:

- Capacity is limited to not more than 10 people at a time in one area.
- Our staff disinfects all common surfaces after each class
- Masks may be required when social distancing cannot be maintained
- 1st Aid/CPR courses will require each student utilize their own mannequin. There will be no sharing of supplies of mannequins during class.
- Respiratory fit tests, drug test collections, and alcohol breath collections will be conducted according to the current best practices.

Our sincerest gratitude for your business and the opportunity to serve you. Considering the current global situation surrounding the Coronavirus (COVID-19) pandemic, we wanted to reach out and share the actions [MJS Safety LLC](#) is taking to keep your operations up and running.

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*Because information regarding COVID-19 and its widespread effects is ever-changing, articles in this month's newsletter referring to COVID-19 will show the release date of the information. We will do our best to pass along the most current information. However, if an article relates to you or your industry directly, you may want to check for any updates that might affect you.*

Here are some of the many helpful Resource links:

- [CDC – Centers for Disease Control](#)
- [CDPHE – Colorado Department of Public Health and Environment](#)
- [WHO - World Health Organization](#)
- [Water and COVID-19 Frequently Asked Questions](#)
- [OSHA Guidance on Preparing Workplaces for COVID-19](#)
- [OSHA Alert — Prevent Worker Exposure to Coronavirus \(COVID-19\)](#)
- [DOL Resources to help Workers and Employers Prepare for the COVID-19 virus](#)
- [Colorado Works — Temporary Assistance for Needy Families \(TANF\) program](#)
- [Colorado PEAK - Medical, Food, Cash, and Early Childhood Assistance programs](#)
- [Covid19.colorado.gov](https://www.covid19.colorado.gov)

We are all growing weary of COVID-19, but we cannot become complacent... Please remain Safe & Healthy!



**COLORADO**  
Department of Revenue

**Important Updates from the State of Colorado/ Colorado Department of Revenue**

Home page for Colorado Department of Revenue – Division of Motor Vehicles - [link](#)

→ Please see the Home page for detailed information on what will be required prior to visiting one of the locations. Here's the [link](#) for complete details.

▶ **MJS SAFETY TRAINING ANNOUNCEMENT**

**MJS SAFETY LLC** is proud to continue offering Operator Qualifications through a variety of programs such as NCCER and O.Q.S.G. to our OQ Services.

**MJS SAFETY LLC** is an "Authorized Assessment Center" for Proctoring Final Assessments and completing Performance Evaluations for O.Q.S.G. and NCCER – as well as other OQ disciplines such as MEA-EnergyU, Veriforce & EnergyWorldNet. [call to schedule](#) [read more...](#)

▶ **Training Summary / Class Schedule** • TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543 • [read more...](#)

→ **Distance Learning & Video Conference classes:** *We are excited to announce that PEC will be allowing us to temporarily offer Safeland and the PEC H2S Clear courses via video conferencing until the end of May. We are also able to offer the 1<sup>st</sup> aid/ CPR classes with an online blended learning option, and remote skills verification – as well as our In-House H2S Awareness Course. Ask about other distance learning opportunities for more information.*

→ **Video Conference Courses Must Be Scheduled Separately and Are Available Upon Request.**

**OSHA / CONSTRUCTION NEWS SUMMARY**

▶ **Decontaminating N95 and Cloth Masks**

Approved N95 masks have been shown by the National Institute of Occupational Safety & Health (NIOSH) to be 95% efficient in controlling particulates and mists when tested. [read more...](#)

▶ **RECOGNIZE SAFE + SOUND WEEK, August 10-16, 2020**

**Safe + Sound Week** is a nationwide event held each August that recognizes the successes of workplace health and safety programs and [offers information](#) and ideas on how to keep America's workers safe. [read more...](#)

▶ **Join the National Safety Stand-Down** to prevent falls in construction

SEPTEMBER 14-18, 2020

Fatalities caused by falls from elevation continue to be a leading cause of death for construction employees, accounting for 320 of the 1,008 construction fatalities recorded in 2018 (BLS data). [read more...](#)

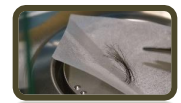
▶ **OSHA RELEASES NEW SILICA DIRECTIVE**

The U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** recently issued a compliance directive, which is designed to ensure uniformity in inspection and enforcement procedures when addressing respirable crystalline silica exposures in general industry, maritime, and construction. [read more...](#)

**TRANSPORTATION NEWS SUMMARY**

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New research validates a study that almost 300,000 truck drivers would fail a hair test for drug use today, according to The Alliance for Driver Safety and Security, which did the original study and funded the validating research. [read more...](#)



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A group of safety organizations and the International Brotherhood of Teamsters have filed a petition for the Federal Motor Carrier Safety Administration to reconsider the final rule on changes to hours-of-service regulations soon to take effect. [read more...](#)



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▶ **Staying Safe During Civil Protests When Avoidance Not Possible**

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## TRANSPORTATION NEWS SUMMARY cont'd

### ▶ Truck Drivers Should Beware of CBD, Drug Policy Expert Says



The U.S. Department of Transportation told truck drivers use of CBD oils would be at their own career risk. [read more...](#)

### ▶ The Overlooked Health Benefit of New HOS — The Ability to Grab a Nap



When Ray Martinez, then administrator of the Federal Motor Carrier Safety Administration, began his hours of service reform push in 2018, “flexibility” soon became his mantra as he received industry feedback. [read more...](#)

### ▶ Notice of Enforcement Discretion Determination: Random Controlled Substance and Alcohol Testing

On March 13, 2020, the President declared a national emergency... The Federal Motor Carrier Safety Administration (FMCSA) is aware that the motor carrier industry continues to experience operational disruptions caused by the COVID-19 public health emergency. [read more...](#)

### ▶ TSA Extends Hazmat Endorsement Renewal Waiver Through October

The Transportation Security Administration is extending for 90 days a waiver from renewal of the Hazardous Materials Endorsement Security Threat Assessment for certain individuals. [read more...](#)

## MSHA NEWS SUMMARY

### ▶ MINE FATALITY — Best Practices: [read more...](#)

See information for the 9<sup>th</sup>, 10<sup>th</sup>, and 11<sup>th</sup> fatality reported in 2020



## MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

### ▶ New Study: Health Risk Behaviors Among Construction Workers



*A profile across a variety of occupations*

New research from the National Institute for Occupational Safety and Health (NIOSH) suggests that several behaviors that contribute to higher health risks are more prevalent among construction workers than workers in other industries. This new study was recently in the Journal of Occupational and Environmental Medicine. [read more...](#)

**MJS SAFETY LLC** is proud to offer NCCER, OQSG, Energy Worldnet, MEA EnergyU, and Veriforce Operator Qualifications.

**MJS SAFETY LLC** is an "Authorized Assessment Center" for Proctoring and Testing for ENERGY worldnet, Inc., as well as OQ Performance Evaluation Services.

**MJS SAFETY LLC** continues to offer Proctor and Testing Services, as well as Operator Qualification [OQ] Performance Evaluations under the "EnergyU" system – a service of Midwest ENERGY Association – as well as Veriforce.

**MJS SAFETY LLC** has "Authorized" Performance Evaluators on staff that can perform this service for specific "Covered Tasks."

**MJS SAFETY LLC** is also available to assist with the Knowledge Based Training for these tasks. Knowledge-based training is designed to help personnel successfully pass the OQ Knowledge Based Testing as well as the Performance Evaluation process.

The Operator Qualification Rule – commonly referred to as the "OQ Rule" addressed in Title 49 of the Code of Federal [US DOT] regulations, mandates that individuals who perform "Covered Tasks" on covered pipeline facilities be qualified through the Operator Qualification Process.

The intent of the OQ rule is to ensure protection of both pipeline personnel and the public at large. Providing individuals with the necessary knowledge and skills is an essential element of any Operator and Contractor OQ plan.

Acceptable requirements for qualification are determined by the operator. The quality and validity of data related to OQ training, testing, and performance is critical to meet these requirements.

If we can be of assistance with these types of services for your company, please [call to schedule](#).

## **MJS Safety OFFERS DRUG & ALCOHOL TESTING** **to comply with DOT/FMCSA, PHMSA & Non-DOT requirements.**

*We offer an in-house drug testing consortium pool with customer service that cannot be beat.*

We also provide assistance with 3<sup>rd</sup> party Drug Testing Compliance Auditing through NCMS, TPS Alert & Veriforce, as well as DISA account management.

## "Training Spotlight"

(there will be a different course featured monthly)

### PEC SAFELANDUSA BASIC ORIENTATION COURSE

This course is a 1 day basic safety awareness course that is required by many operators in the Oil & Gas industry for all new employees prior to accessing work sites. This orientation is a baseline so all employees entering the industry are introduced to the basic requirements of hazard recognition, stop work authority, job safety analysis use, and other hazard mitigation concepts. Students will receive a temporary ID card upon successful course completion. In 4 to 6 weeks students will receive a permanent PEC Photo ID card

For all of our Course Offerings visit the [MJS Safety website](#)

► MJS Safety also offers custom classes to fit the needs of your company ◀

SOURCES FOR THIS ISSUE INCLUDE:  
OSHA  
FMCSA  
MSHA  
Overdrive  
DOT  
CDC  
NIOSH  
NHTSA  
HDT TruckingInfo  
tt Express  
Colorado Motor Carriers Assoc.  
OccuSafe  
JOEM  
TSA

**Schedule of classes Aug 2020:** • TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543

• [SEE MORE INFORMATION FOR](#) Distance Learning & Video Conference classes

- \*PEC Safeland Basic Orientation: August 5, 20, 31; 8 – 4:30;  
*For a limited time this class is available through video conference instructor led distance learning - now through 8/31/2020 - only upon request*
- \*First Aid/CPR/AED/BLOODBORNE PATHOGENS (We offer MEDIC FIRST AID): August 7, 26; 8 – noon;  
*This class available for blended learning (online) with remote or in-person skills assessment*
- \*Hydrogen Sulfide Awareness [ANSI Z390 -2017 Course]: August 7, 26; 12:30 – 4:30;  
*This class available via Instructor Led video conference*

\* In-person classes are limited to 9 people at this time in accordance with social distancing guidelines.

[ For any last minute schedule updates, go to [www.mjssafety.com](http://www.mjssafety.com) ]

► NEED ANY OF THESE CLASSES IN SPANISH? CONTACT [carriejordan@mjssafety.com](mailto:carriejordan@mjssafety.com) TO SCHEDULE TODAY ◀

To sign up for one of these classes, or inquire about scheduling a different class  
Call Carrie at 720-203-4948 or Jeremy at 720-203-6325 or Mike at 303-881-2409

#### — FEATURED TRAINING PROGRAMS —

- Safeland Basic Orientation • Hydrogen Sulfide Awareness • First Aid/CPR
- OSHA 10 Hour for General Industry or Construction • Confined Space for Construction
- Competent Person for Excavations • HAZWOPER 8, 24 & 40 Hr Courses

Order  
First Aid  
& other

Safety Supplies

[www.mjssafety.com](http://www.mjssafety.com)

Jeremy 720-203-6325

Carrie 720-203-4948

or Mike

303-881-2409

### Unable to attend a class?

MJS Safety offers multiple "ONLINE TRAINING COURSES"

including

OSHA Construction, General Industry, Environmental,  
Hazardous Waste Public Safety, DOT,  
Human Resource, and Storm Water & ISO

or you can

Need Help With

- ISNetworkId
- PEC/Veriforce
- NCMS
- Avetta/BROWZ
- TPS ALERT

CALL US!!!

Schedule training at our Training Center in Milliken... or On-Site at your facility



## OSHA / CONSTRUCTION

# Decontaminating N95 and Cloth Masks

Approved N95 masks have been shown by the National Institute of Occupational Safety & Health (NIOSH) to be 95% efficient in controlling particulates and mists when tested. Due to the shortage of N95 masks during the COVID-19 pandemic, many employers have had to re-use masks that are recommended for one-time use. According to OSHA, decontaminating filtering facepiece respirators (FFR) voids the respirators' NIOSH approval. OSHA emphasizes that employers should look to respirator manufacturers for guidance regarding which decontamination methods are compatible with specific respirator models.

3M, one of the largest manufacturers of N95 has published a Technical Bulletin entitled "[Decontamination of 3M Filtering Facepiece Respirators such as N95 Respirators in the United States- Considerations](#)". Unfortunately, in this bulletin, 3M repeats the OSHA warning about voiding the approval but does not give any further guidance on how to decontaminate an FFR. It does state it is working with other manufacturers and institutes to solve this problem and has individually been working for years on ways to decontaminate FFRs. No guidelines have been published at this time.

3M, as well as OSHA, refer to a Centers for Disease Control (CDC) document, "[Decontamination and Reuse of Filtering Facepiece Respirators](#)". It concludes that although FFRs are not approved for routine decontamination and reuse, during times of shortages, reuse may be needed. It states, "Based on the limited research available, as of April 2020, ultraviolet germicidal irradiation, vaporous hydrogen peroxide, and moist heat have shown the most promise as potential methods to decontaminate FFRs." "Before using any decontamination method, it should be evaluated for its ability to retain 1) filtration performance, 2) fit characteristics achieved prior to decontamination, and 3) safety of the FFR for the wearer."

Of the three recommended processes, baking N95 respirators in an oven with moist heat is the most readily available solution. Short-wave ultraviolet (UV) light has been used as a disinfectant and UV devices are inexpensive and readily available. UV light kills or inactivates microorganisms by disrupting their DNA and replication. Vaporous hydrogen peroxide disinfection systems are used in laboratory and medical facilities for sterilization but may not be available in most general industry facilities.

The CDC also has a [guideline](#) for washing cloth masks. One can wash a mask in the washing machine with other clothing or hand wash in a bleach solution. Cloth masks can be dried in a dryer at a high heat setting or allowed to air dry in direct sunlight.

Although N95 manufacturers at this time have been silent on how to reuse their disposable devices, the CDC has been providing guidance on how to best disinfect N95 and cloth masks. The use of masks along with social distancing is shown to help fight the COVID-19 pandemic.

**Be Smart, Be Well, Be Six Feet Apart!**

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RECOGNIZE **SAFE + SOUND WEEK**,  
August 10-16, 2020

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Safe + Sound Week is a nationwide event held each August that recognizes the successes of workplace health and safety programs and offers information and ideas on how to keep America's workers safe.

### Why Participate?

Successful safety and health programs can proactively identify and manage workplace hazards before they cause injury or illness, improving sustainability and the bottom line. Participating in Safe + Sound Week can help get your program started, energize an existing one, or provide a chance to recognize your safety successes.

### Who Participates?

All organizations looking for an opportunity to recognize their commitment to safety are welcome to participate. Last year, more than 3,300 businesses helped to raise awareness about workers' health and safety!

## Join the

### NATIONAL SAFETY STAND-DOWN TO PREVENT FALLS IN CONSTRUCTION

SEPTEMBER 14-18, 2020

Fatalities caused by falls from elevation continue to be a leading cause of death for construction employees, accounting for 320 of the 1,008 construction fatalities recorded in 2018 (BLS data).

#### Those Deaths Were Preventable.

The **National Safety Stand-Down** raises fall hazard awareness across the country in an effort to stop fall fatalities and injuries.

### What is a Safety Stand-Down?

A **Safety Stand-Down** is a voluntary event for employers to talk directly to employees about safety. Any workplace can hold a stand-down by taking a break to focus on "**Fall Hazards**" and reinforcing the importance of "**Fall Prevention**". Employers of companies not exposed to fall hazards, can also use this opportunity to have a conversation with employees about the other job hazards they face, protective methods, and the company's safety policies and goals. It can also be an opportunity for employees to talk to management about fall and other job hazards they see.

### Who Can Participate?

Anyone who wants to prevent hazards in the workplace can participate in the **Stand-Down**. In past years, participants included commercial construction companies of all sizes, residential construction contractors, sub- and independent contractors, highway construction companies, general industry employers, the U.S. Military, other government participants, unions, employer's trade associations, institutes, employee interest organizations, and safety equipment manufacturers.

### Partners

**OSHA** is partnering with key groups to assist with this effort, including the **National Institute for Occupational Safety and Health (NIOSH)**, the **National Occupational Research Agenda (NORA)**, **OSHA** approved **State Plans**, **State consultation programs**, the **Center for Construction Research and Training (CPWR)**, the **American Society of Safety Engineers (ASSE)**, the **National Safety Council**, the **National Construction Safety Executives (NCSE)**, the **U.S. Air Force**, and the **OSHA Training Institute (OTI) Education Centers**.

### How to Conduct a Safety Stand-Down and [FAQ's](#)

Companies can conduct a **Safety Stand-Down** by taking a break to have a toolbox talk or another safety activity such as conducting safety equipment inspections, developing rescue plans, or discussing job specific hazards. Managers are encouraged to plan a **Stand-Down** that works best for their workplace anytime. See [Suggestions to Prepare for a Successful "Stand-Down"](#) and [Highlights from the Past Stand-Downs](#). **OSHA** also hosts an **Events page** with events that are free and open to the public to help employers and employees find events in your area.

If you plan to host a free event that is open to the public, see **OSHA's Events page** to submit the event details and to contact your [Regional Stand-Down Coordinator](#).

### Certificate of Participation

Employers will be able to provide feedback about their **Stand-Down** and download a **Certificate of Participation** following the **Stand-Down**. The certificate pages will be active on September 14, 2020, for employers to enter their information and print their certificate.

[See complete details](#)

### OSHA RELEASES NEW SILICA DIRECTIVE

The U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** recently issued the compliance directive [Inspection Procedures for the Respirable Crystalline Silica Standards](#), which is designed to ensure uniformity in inspection and enforcement procedures when addressing respirable crystalline silica exposures in general industry, maritime, and construction.

The new directive provides **OSHA** compliance safety and health officers with guidance on how to enforce the silica standard's requirements, including: methods of compliance, table 1 tasks and specified exposure control methods, exposure assessments, housekeeping, respiratory protection, regulated areas, recordkeeping, employee information and training, medical surveillance, and communication of hazards.

The directive also provides clarity on major topics, such as alternative exposure control methods when a construction employer does not fully and properly implement Table 1, variability in sampling, multi-employer situations, and temporary workers.

For more information or even a presentation on the topic, please contact **John Olaechea** at 720-264-6586 or [olaechea.john@dol.gov](mailto:olaechea.john@dol.gov).

# Hair Testing Could Take Nearly 300,000 Truck Drivers Off the Road



New research validates a study that almost 300,000 truck drivers would fail a hair test for drug use today, according to **The Alliance for Driver Safety and Security**, which did the original study and funded the validating research.

Written by Doug Voss and Joe Cangelosi at the **University of Central Arkansas**, the peer-reviewed research article appeared in a recent issue of the *Journal of Transportation Management* (July 2020).

“[Drug Testing in the U.S. Trucking Industry: Hair vs. Urine Samples and the Implications for Policy and the Industry](#)” examined trucking industry data and found about 300,000 truck drivers would be removed from their positions if forced to pass a hair drug test.

Hair testing opponents argue that the test is biased against ethnic minority groups, the researchers note, but “comparing urine and hair pass/fail rates for various ethnic groups, our results indicate ethnic groups are significantly different irrespective of testing procedure.”

The report cites several studies and articles that “highlight the possibility that current federally accepted urinalysis is insufficient to deter and catch drivers who may abuse substances that degrade their driving performance.”

Because of problems with drivers being able to cheat urine testing, some motor carriers, including *Schneider*, *Knight-Swift Transportation*, *J.B. Hunt Transport*, *Werner Enterprises* and *Maverick*, use more stringent hair drug tests, **The Trucking Alliance** last year conducted a [study comparing pass/fail rates for urine and hair drug screens](#). Using 151,662 paired pre-employment urine and hair drug test results from 15 different trucking companies, their results indicated that 949 (0.6%) applicants failed the urine test while 12,824 (8.5%) failed or refused the hair test.

The Alliance extrapolated their results over a population of 3.5 million U.S. truck drivers and claimed that, if their results were generalized across the U.S. driver population, almost 300,000 current drivers would not be on the road if forced to pass a hair test. However, no evidence was presented to justify whether their sample was, in fact, generalizable.

In addition, opponents of hair tests have argued that they are biased against certain ethnic groups based on hair composition. Several authors, however, “have argued that the bias claim is spurious,” according to the Arkansas researchers.

## About the Research

**University of Central Arkansas** researchers were given access to data independently provided by cooperating trucking companies that employ hair testing in addition to urinalysis.

The goals were to determine if:

1. *The Trucking Alliance sample is generalizable, which would support their claim that roughly 275,000 drivers would be unable to engage in safety sensitive functions if forced to pass a hair test and,*
2. *whether hair testing has a disparate impact on minority ethnic groups.*

Based on its review, researchers concluded that:

- *The Trucking Alliance sample is large enough to generalize across the national driver population;*
- *The Trucking Alliance sample is representative of the national driver population;*
- *The Trucking Alliance urinalysis v. hair test results can be generalized across the national driver population. This supports the notion that roughly 275,000 current drivers would be unable to perform safety sensitive functions if forced to undergo hair testing.*

Researchers also reported that they were unable to find disparate impacts of hair testing among the ethnic groups.

## DOT Slow to Act on Hair Testing

Congress authorized the DOT to recognize hair testing of commercial drivers in 2015. Congress directed the **Department of Health and Human Services (HHS)** to write hair test guidelines. “Despite other internationally recognized lab standards for hair testing in existence now, HHS is now almost four years behind its deadline,” said Lane Kidd, managing director of **The Trucking Alliance**.

In fact, in 2018, the bipartisan [Opioid Crisis Response Act of 2018](#) directed the **Substance Abuse and Mental Health Services Administration** to report to Congress on its progress creating and issuing guidelines for hair testing.

The researchers also said their work shows that more research should be done on drug testing. “The supply chain literature is largely silent on the drug testing debate. Future investigations may wish to examine trucking company drug testing best practices, such as when drivers are most likely to test positive or the relationship between the number of positive random drug screens and safety performance.”

## About the Researchers

Douglas Voss is professor of **Logistics and Supply Chain Management** at the University of Central Arkansas. He holds a **Ph.D.** from Michigan State University. Joseph D. Cangelosi Jr is the **Textbook Brokers Professor of Marketing** at the University of Central Arkansas. His research focuses on statistical analysis and analytics across various topics, including logistics. He has a **D.B.A.** from Louisiana Tech University.

## Hair Testing and the Clearinghouse

On a related note, in comments filed last month with the **Federal Motor Carrier Safety Administration**, **The Trucking Alliance** urged that the agency accept a truck driver’s previously failed hair test for drug use, to the newly established **Drug and Alcohol Clearinghouse**.

Current **FMCSA** policy states that if an employer becomes aware of a commercial motor vehicle driver’s drug or alcohol abuse, other than the DOT urinalysis test, this constitutes an employer’s ‘actual knowledge.’ This knowledge should be reported to **FMCSA**, specifically, to the clearinghouse, contends the Alliance.

**The Trucking Alliance** believes that, as long as the testing method meets generally accepted laboratory standards, **FMCSA** should recognize a failed hair test as an employer’s actual knowledge, and the test results should be reported to the clearinghouse.



# Safety Groups, Teamsters Petition FMCSA to Reconsider HOS Final Rule



A group of safety organizations and the [International Brotherhood of Teamsters](#) have filed a petition for the [Federal Motor Carrier Safety Administration](#) to reconsider the final rule on changes to hours-of-service regulations soon to take effect.

The petition, dated June 30, was filed by the *Advocates for Highway and Auto Safety*, the *International Brotherhood of Teamsters*, the *Truck Safety Coalition*, *Citizens for Reliable and Safe Highways* and *Parents Against Tired Truckers*.

[FMCSA's final rule](#), announced by Transportation Secretary Elaine Chao and FMCSA Acting Administrator Jim Mullen on May 14, includes four revisions that pertain to issues truckers have voiced concerns about, such as the 30-minute rest break and splitting up time in the sleeper berth. The final rule takes effect Sept. 29.

"What we're asking for is a delay in the effective date of the rule until the agency has an opportunity to review our petition in full," Peter Kurdock, general counsel for *Advocates for Highway and Auto Safety* stated. "From our comments during the rulemaking process, there's a great concern that the changes that FMCSA made to the hours-of-service rules in this final rule are going to increase fatigue at a time when truck crashes continue to go up, and that's a real concern for us as a safety organization."

Fatalities in crashes involving at least one large truck are projected to have increased by 1% in 2019, while overall traffic fatalities are projected to see a decline, according to [National Highway Traffic Safety Administration](#) estimates. NHTSA [released preliminary figures](#) for the [Fatality Analysis Reporting System](#) data for 2019 on May 5.

Specifically, FMCSA's final rule will allow more flexibility for the 30-minute rest break rule by requiring a break after eight hours of

consecutive driving and allowing the break to be satisfied by a driver using "on-duty, not driving" status, rather than "off-duty" status.

The rule also will modify the split sleeper berth exception to allow drivers to divide their required 10 hours off duty into two periods: an 8/2 hour split or a 7/3 hour split. Neither period would count against the driver's 14-hour driving window.

Additionally, the rule modifies the adverse driving conditions exception by extending by two hours the maximum window during which driving is permitted.

The final revision involves changing the shorthaul exception available to certain drivers by lengthening the drivers' maximum on-duty period from 12 to 14 hours and extending the distance limit within which the driver may operate from 100 air miles to 150 air miles.

Kurdock said the petitioners have concerns about all four of the provisions that have been revised. "We certainly have issues with each one of them," Kurdock said. "I don't think one stands out above the rest." Safety groups and the [International Brotherhood of Teamsters](#) are not the only organizations to express concern about the final rule's potential to impact safety.

In a joint statement, Rep. Nita Lowey (D-N.Y.), chairwoman of the House Appropriations Committee, and Rep. David Price (D-N.C.), chairman of the House Transportation, Housing and Urban Development and Related Agencies subcommittee, said the final rule could jeopardize the safety of truckers and the traveling public due to potential for greater fatigue.

The final rule is based on a [proposed rulemaking](#) that was announced Aug. 14, 2019. FMCSA officials waded through 8,000 public comments, gathered both online and through in-person meetings, as they formed the final rule. "We have full faith that the agency will give the petition a thorough and appropriate review," Kurdock said.

## CVSA Schedules Brake Safety Week for Late August



The [Commercial Vehicle Safety Alliance's](#) (CVSA) has announced that **Brake Safety Week** will proceed as scheduled, August 23-29. Enforcement Officials will be inspecting commercial motor vehicles for critical out-of-service brake violations, as well as other critical vehicle out-of-service violations, and will restrict them from use until the violations have been corrected. Vehicles that pass eligible inspections receive a passed-inspection CVSA decal.

"Safety is always our top priority and it's our mission to ensure the vehicles on our roadways have met all safety standards and regulations," said CVSA President Sgt. John Samis with the Delaware State Police. "This is especially important as we rally behind truck drivers as they transport essential goods during this public health crisis. We need to do everything we can to ensure that the vehicles truck drivers are driving are as safe as possible."

While checking brake system components is always part of roadside inspections, inspectors will be paying special attention to brake hoses/tubing during this year's **Brake Safety Week** to highlight the importance of those components to vehicle safety. Brake hoses/tubing must be properly attached, undamaged, without leaks, and appropriately flexible.

During last year's **International Roadcheck** inspection and enforcement initiative, brake system and brake adjustment violations accounted for 45.1% of all vehicle out-of-service conditions, more than any other category. Last year's **Brake Safety Week** resulted in 13.5% of the commercial motor vehicles inspected placed out of service due to brake-related vehicle inspection item violations.

# Staying Safe During Civil Protests When Avoidance Not Possible



This particular incident was reminiscent of the 1992 Los Angeles riots when a group of protesters pulled truck driver Reginald Denny from his cab and nearly beat him to death, costing Denny his trucking career due to injuries that affected his speech and ability to walk.

Nationwide protests in recent weeks over the death of George Floyd, who died while being held to the ground by former Minneapolis police officer Derek Chauvin, have closed down highways and, in some cases, made it difficult for truck drivers to continue along their routes.

This was most evident on May 31 when an owner-operator for a North Canton, OH based company drove into a crowd of thousands of protesters on I-35 West in Minneapolis. He didn't hit anyone and no one was hurt, but after he came to a stop, he was pulled out of his cab and beaten until some protesters stepped in to shield him until police arrived.

Collin Mooney, executive director of the Commercial Vehicle Safety Alliance, said he strongly recommends truck drivers do their best to avoid areas where large protests are occurring.

"Even a peaceful protest can transition pretty quickly into a violent situation," he said, as evidenced by the Minneapolis incident. "I recommend if any truckers are operating in any area where protests are gathering or plan to gather, avoid the area altogether. Not just for their safety, but for preserving the equipment and supplies as well."

Doug Morris, director of safety and security for the Owner-Operator Independent Drivers Association, also suggested avoidance is the best option for truckers when it comes to protests. If that's not possible, however, he said to call the police and tell them where you are and if you're hauling hazmat. If your truck gets surrounded, he added, try to lock yourself in your truck to stay safe and be prepared to defend yourself.

"I've seen in past experiences, you never know what's going to happen," Morris said. "When protesters have dragged drivers out of their cab, they generally beat them. The cab of your truck is your cocoon, and it's best to lock yourself in, roll up your windows and do your best to defend yourself. Drivers are allowed to carry a tire thumper to beat the tires to check the air – use that as a defensive weapon. I know a lot of drivers have handgun permits. Make sure it's legal to carry in the particular state you're in, but if somebody comes at you with deadly force, you can respond with deadly force."

Morris added that drivers should be aware that any action they take, even in self-defense, "will be looked at and investigated by law enforcement, and you could be charged if you did something wrong." However, "if somebody is trying to hurt or kill you, you have to defend yourself," he said.

The fact that this driver was driving a tanker was even more concerning to Mooney, he said. The tanker happened to be empty, but had it not been, "if that tank was to roll, it could have been a very tragic situation," Mooney said.

Morris said the Denny incident is one that is still in the back of the minds of many truckers today.

Mooney said he appreciates the sentiment of truck drivers to "not want to be the next Reginald Denny," he said. "You never want to be in a confrontational situation. The best course of action is always avoidance and not being caught up in the middle."

The Iowa Motor Truck Association said in a letter to members that when a truck driver sees masses of people blocking the roadways, he or she should stop as soon as possible and look for ways to avoid a confrontation.

"Do whatever necessary to change directions and get out of the area," IMTA said. "If you are alert, you should be able to see these masses of people far enough in advance that you can act before being surrounded."

If avoidance isn't possible, however, IMTA offered several tips to help drivers keep themselves safe:

- **Keep your doors locked and take your seat belt off if you think you might be attacked.** *If your doors don't automatically lock, get in the habit of doing it manually – especially the passenger side door. If you encounter a situation where you could be under attack, remove your seat belt before being attacked so you can exit the truck more quickly if you have to. "It's better to take your chances on foot than be trapped inside," IMTA said.*
- **If you have time, crack your windows and turn off the ventilation system.** *Windows that are down approximately a half inch are harder to break than a window that is tightly closed, IMTA said. Turn off your ventilation system to prevent smoke or tear gas in the air from getting into your cab.*
- **Beware of other forms of roadblocks.** *IMTA said protesters and rioters can make their own makeshift roadblocks with stolen cars parked to block a roadway, causing other drivers to stop.*
- **Keep your dashcam on.** *Information recorded on your dashcam could help law enforcement if anything goes wrong. It can also help you for insurance purposes.*
- **Call ahead to customers.** *A quick phone call to a customer in an area suspected of having protests can help in knowing what to do and where to go.*
- **If hauling hazmat, call 911 immediately.** *Be prepared to identify your location and to tell first responders what you are transporting. This can help law enforcement protect you and everyone in the vicinity of the hazardous materials.*

## Truck Drivers Should Beware of CBD, Drug Policy Expert Says



The **U.S. Department of Transportation** told truck drivers use of **CBD** oils would be at their own career risk.

That warning was issued by a **DOT** drug policy official briefing a **Federal Motor Carrier Safety Administration** advisory committee on July 13.

Although a measure signed into law by President Donald Trump in December 2018 makes industrial hemp legal, the use of cannabidiol, or **CBD**, can be a trap for truck drivers. **CBD** products are too often mislabeled and can contain higher concentrations of tetrahydrocannabinol, or **THC**, the intoxicating substance in marijuana.

Sue Lenhard, policy adviser at **DOT's Office of Drug and Alcohol Policy and Compliance**, told **FMCSA's Motor Carrier Safety Advisory Committee** that federal law now allows a **THC** concentration of 0.3%, or less, to be classified as hemp.

A higher concentration is assumed to be marijuana that can be detected in a **DOT** drug test for truck drivers and other safety-sensitive transportation workers from aircraft pilots and school bus drivers to train and transit vehicle operators.

"When I think **THC**, a lot of people think, marijuana," Lenhard said. "They might not realize that hemp also has **THC** in it."

Marijuana and hemp are both of the same plant species, Lenhard told **MCSAC** members. "However, marijuana has a lot more **THC**," she said.

One of the major differences is that in marijuana most of the **THC** content is in the plant's bud, while the **THC** in hemp is found mostly in the plant's leaf.

**CBD** oil, plentiful nationwide, is a substance some believe effectively treats maladies such as anxiety, cognition problems, movement disorders and pain. Although many users have sworn that the oils help provide relief, there has been no scientific research to verify whether they are effective.

The potential problem for truck drivers is that they are not permitted to even use marijuana, much less drive under its influence.

If a driver using **CBD** tests positive for marijuana, which generally is detectable in a drug test for 30 days, he or she cannot use the excuse that they used **CBD** oil.

"The U.S. has been inundated with top **CBD** products that offer benefits from helping asthma, helping your back, making you happy or curing cancer," Lenhard said. "But the **Federal Drug Administration** warns that there is limited scientific data about **CBD** medical claims and are of unknown quantity of **CBD** and **THC**."

"**FDA** does not currently certify the safety or the levels of **THC** in **CBD** products," Lenhard said. "The **FDA** cautions that consumers should beware purchasing any **CBD** products."

The **FDA** has stated it is currently illegal to market **CBD** by adding it to a food or labeling it as a dietary supplement, Lenhard said. Also, the **FDA** has issued several warning letters to companies because their products contained more **CBD** than indicated on the product label.

Lenhard said that her office is still getting calls daily from drivers who tested positive after using **CBD** that they thought was safe.

She added that for truck drivers, the **DOT** drug-and-alcohol testing regulation does not authorize the use of Schedule 1 drugs, including marijuana, for any reason — and **CBD** use is not a legitimate medical explanation for a laboratory-confirmed marijuana positive result.

If a driver tests positive for marijuana, even if only from **CBD** use, the result will likely be serious.

The medical review officer will notify the employer, and the driver's name will be put on the **FMCSA's Drug and Alcohol Clearinghouse**, where it will remain on a driver's record for five years.

The driver will have to go through a substance abuse professional program, pass a directly observed return-to-duty drug test and submit to six directly observed follow up tests over 12 months. In addition, the employee may have to pay for some or all of the program out of pocket.

"It really is the wild, wild west with these products," Lenhard said. "And it really is buyer beware."

# The Overlooked Health Benefit of New HOS — The Ability to Grab a Nap

When Ray Martinez, then administrator of the **Federal Motor Carrier Safety Administration**, began his hours of service reform push in 2018, “flexibility” soon became his mantra as he received industry feedback. Much of that emphasis related to productivity.

The rule that resulted, taking effect Sept. 29, in its split-sleeper-berth provisions allows a driver to exclude a two- to three-hour off-duty period from counting against the 14-hour clock. That yields a potential two-three hours of on-duty time that can’t be achieved under the current rule. Instead, the incentive has been to avoid taking those hours off-duty and continue working. In many cases, that short period would have been used for sleep, so the safety ramification is obvious.

While the new rule’s flexibility addresses the immediacy of the fatigue problem, there’s also a potential longer-range benefit. That’s the health improvement that comes from napping when it’s truly needed.

**The benefits go beyond fatigue reduction: improvements in mood, reaction time and memory, says the Mayo Clinic.**

Avoiding the flipside – getting inadequate sleep too often and missing opportunities to compensate with a nap – is just as important. “The cumulative long-term effects of sleep loss and sleep disorders have been associated with a wide range of deleterious health consequences including an increased risk of hypertension, diabetes, obesity, depression, heart attack, and stroke,” says a National Academy of Sciences report.

**It notes two general causes of sleep loss: sleep disorders and lifestyle/occupational patterns.** Many long-haul drivers hit the jackpot here.



They are more prone to obstructive sleep apnea, due largely to the sedentary nature of professional driving and a tendency toward obesity. And the lifestyle/occupational realities of

sleep for over-the-road drivers are similar to, if not worse than, what’s experienced by those regularly working in the wee hours.

**Like any physical problem worth its salt, there’s a name and acronym for those having a sleep problem due to working split shifts, graveyard shifts or rotating shifts: *shift work sleep disorder*.** Not only is the SWSD victim tired a lot, but sleep doesn’t refresh him or her as well as it should, pointing again to the need for napping.

“The Cleveland Clinic estimates that between 10 to 40 percent of shift workers experience SWSD,” said a report on healthline.com. “Those who have regularly shifting schedules are most likely to be affected.”

**FMCSA**, in its cost/benefit analysis of the rule, reviews studies on drivers’ sleep, including a pre-2003 study that found drivers were getting a paltry 5.2 hours per night. Later studies “show that long-haul truck drivers are, on average, getting more sleep than they did prior to the HOS rule change in 2003,” says **FMCSA’s** report. That’s good news, though other sleep science shows that as people age beyond 40 – a disproportionately large part of the long-haul driver force – they are less able to adapt their sleep habits to constantly changing schedules.

One of the studies **FMCSA** cited “confirmed that total sleep time per 24-hour period is what is most important to reduce fatigue and improve performance. Rest breaks, and especially naps, are an important tool in combating fatigue, and **FMCSA** encourages their use.”

Under the new hours rule, interruptions and frequent change will still be the rule, not the exception, for most long-haulers’ schedules. At least the rule takes some control away from a clock and passes it to the operator, boosting not just productivity but also health.

July 6, 2020

## Notice of Enforcement Discretion Determination: Random Controlled Substance and Alcohol Testing

**Jim Mullen, Deputy Administrator**

**Federal Motor Carrier Safety Administration**

On March 13, 2020, the President declared a national emergency under 42 U.S.C. § 5191(b), related to the effects of Coronavirus Disease 2019 (COVID-19). The Federal Motor Carrier Safety Administration (FMCSA) is aware that the motor carrier industry continues to experience operational disruptions caused by the COVID-19 public health emergency. As the Nation engages in a phased re-opening, the pace of return to normal operations will vary across the country. In some regions of the United States, motor carrier employers subject to controlled substance (drug) and alcohol testing under 49 CFR part 382 may be unable to comply with certain testing requirements due to the ongoing impacts of the emergency.

In recognition of these barriers to full compliance in some locations, the Agency may exercise discretion to determine not to enforce the minimum annual percentage random testing rates for drugs and alcohol, and the requirement that each employer ensure that the dates for administering random drug and alcohol tests are spread reasonably throughout the calendar year, as set forth in 49 CFR 382.305(b)(1) and (2) and 49 CFR 382.305(k), respectively.

*FMCSA emphasizes, however, that employers capable of meeting these requirements must continue to do so.*

Employers must continue to select drivers at the required rate of 50 percent of their average number of driver positions for controlled substances, and 10 percent for random alcohol testing during the calendar year 2020. If a test is unable to be completed due to the COVID-19 public health emergency, the motor carrier must maintain written documentation of the specific reasons for non-compliance. For example, employers should document closures or restricted use of testing facilities or the unavailability of testing personnel. Additionally, employers should document actions taken to identify alternative testing sites or other testing resources.

Similarly, employers who are unable to ensure that the dates for administering random controlled substances and alcohol tests are spread reasonably throughout the calendar year should document the specific reasons why they did not meet this requirement. For example, in addition to the lack of available testing facilities or personnel, there may be other factors, such as prolonged or intermittent driver furloughs due to the impacts of COVID-19.

The Agency issues this Notice to assure employers unable to fully comply with the requirements identified above that we will provide reasonable enforcement flexibility during this unprecedented pandemic, while also meeting FMCSA's core safety mission.

This Notice is not intended, and should not be perceived, as suspending the current random testing requirements.

This Notice pertains to employers' noncompliance, during calendar year 2020, with the random testing requirements described above. The Agency may exercise enforcement discretion in connection with motor carrier investigations occurring in calendar year 2021.

### This Notice:

1. Acknowledges the current and anticipated disruptions to the administration of drug and alcohol testing caused by the COVID-19 public health emergency;
2. Considers the interests of public safety and the continuing need to free up medical supplies and facilities for the diagnosis and treatment of COVID-19;
3. Requires that employers who are capable of complying with 49 CFR 382.305(b) and 49 CFR 382.305(k) must continue to do so; and
4. Creates no individual rights of action and establishes no precedent for future determinations.

## TSA Extends Hazmat Endorsement Renewal Waiver Through October

The Transportation Security Administration is extending for 90 days a waiver from renewal of the [Hazardous Materials Endorsement Security Threat Assessment](#) for certain individuals.

TSA first published the waiver on April 8 that allows states to extend hazmat endorsement expiration dates for those that expired on or after March 1. The waiver was set to expire July 31, and it will now be effective through at least Oct. 29.

The agency says states and the American Association of Motor Vehicle Administrators requested the extension because states continue facing challenges in maintaining regular operations at state driver's license agencies due to COVID-19.

**Important note:** TSA adds that drivers looking to renew their hazmat endorsements must initiate a security threat assessment at least 60 days before the end of the state-granted extension.



**MINE FATALITY** – On June 13, 2020, a dragline was found submerged in 25 feet of water where a miner had been using it to remove material from a pond. Divers attempted to locate the dragline operator, and after two days the dragline was extricated from the pond. The victim was recovered from the engine compartment behind the operator’s cab.

### Best Practices:

- Maintain control of operating mobile equipment.
- Keep all exits clear in cabs, including alternate and emergency exits, and make sure the doors open freely before beginning work.
- Retrofit older models of equipment with current automatic braking systems.
- Ensure all controls and brakes are set to the appropriate position for the task.

**This is the 9<sup>th</sup> fatality reported in 2020, and the second classified as “Machinery.”**

**MINE FATALITY** – On June 19, 2020, a miner died while inspecting a stockpile for oversized material. As the victim walked along the toe of the stockpile, a portion of the stockpile collapsed, covering him with approximately four feet of material.

### Best Practices:

- Establish and discuss safe work procedures before beginning work. Identify and control all hazards associated with the work to be performed and the methods to properly protect persons.
- Task train everyone to recognize potential hazardous conditions that can decrease bank or slope stability and ensure they understand safe job procedures for eliminating hazards. • Stay clear of potentially unstable areas. Barricade the toe area to prevent access where hazards have not been corrected.
- Over-steepened slopes may be flattened from the top of the stockpile by using a bulldozer to gradually cut down the slope.



**This is the 10<sup>th</sup> fatality reported in 2020, and the first classified as “Falling, Rolling, or Sliding Rock or Material of Any Kind.”**



**MINE FATALITY** – On July 9, 2020, a mine superintendent was electrocuted while attempting to reverse the polarity of a 4,160 VAC circuit by switching the leads inside an energized 4,160 VAC enclosure that contained a vacuum circuit breaker and disconnect.

### Best Practices:

- Follow these steps before performing electrical work inside a high voltage enclosure:
  1. *Locate the high voltage visual disconnect away from the enclosure that supplies incoming electrical power to the enclosure.*
  2. *Open the visual disconnect to provide visual evidence that the incoming power cable(s) or conductors have been de-energized.*
  3. *Lock-out and tag-out the visual disconnect yourself. Never rely on others to do this for you.*
  4. *Ground the de-energized conductors.*
- Verify circuits are de-energized using properly rated electrical meters and non-contact voltage testers.
- Ensure properly qualified miners perform all work on high voltage equipment.
- Wear properly rated and well maintained personal protective equipment, including arc flash protection such as a hood, gloves, shirt and pants.
- Train miners on safe work practices for high voltage electrical equipment and circuits.

**This is the 11<sup>th</sup> fatality reported in 2020, and the first classified as “electrical.”**

# New Study: Health Risk Behaviors Among Construction Workers



## *A profile across a variety of occupations*

New research from the **National Institute for Occupational Safety and Health (NIOSH)** suggests that several behaviors that contribute to higher health risks are more prevalent among construction workers than workers in other industries. This new study was recently in the **Journal of Occupational and Environmental Medicine**.

Construction workers are in physically demanding jobs and exposed to many chemical and physical workplace hazards, with falls remaining the leading cause of work-related deaths in construction, accounting for about one-third of the total number of fatalities in this industry. Previous studies suggested that construction workers who exhibit certain health risk behaviors may be more likely to experience work-related injuries. **NIOSH** researchers were interested to explore how common health risk behaviors are among this workforce.

The study looked at six health risk behaviors among construction workers compared to workers in other industries.

### **The main findings showed:**

- *Smoking, smokeless tobacco use, binge drinking, no leisure-time physical activity, and not always using a seatbelt were significantly more prevalent among construction workers than in the general workforce.*

- *A sixth health risk behavior, getting less than seven hours of sleep a day, was significantly less prevalent among construction workers as compared to the general workforce.*

• *Construction managers had elevated prevalences for smoking, smokeless tobacco use, binge drinking, and not always using a seatbelt.*

• *Because of their important leadership roles, behavior changes among construction managers could have positive effects on the safety and health culture in the construction industry.*

• *Carpenters, construction laborers, and roofers all had significantly elevated prevalences for five of the six behaviors (all except short sleep).*

• *Roofers, as well as electrical power-line installers and repairers, had significantly elevated prevalences for binge drinking.*

• *Operating engineers, who operate and maintain heavy earthmoving equipment, had very high rates for smokeless tobacco use.*

The survey covered 38 different construction occupations, including laborers, project managers, those in construction trades, and contractors, and was conducted by telephone across 32 states, from 2013 to 2016.

Due to the high prevalence of some health risk behaviors, researchers emphasize that construction workers may benefit from targeted interventions and health programs specific to their particular occupation to reduce these behaviors, particularly since they are also potentially exposed to workplace-specific hazards.

To access the study, please [click here](#). Find out more about **NIOSH research in construction**.

**NIOSH** is the federal institute that conducts research and makes recommendations for preventing work-related injuries, illnesses and deaths. For more information about **NIOSH** visit <http://www.cdc.gov/niosh>.